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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,676	02/14/2000	Michael Joseph Johnson	RAL9-99-0124	7028

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SAWYER LAW GROUP LLP
PO BOX 51418
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EXAMINER

WON, MICHAEL YOUNG

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/503,676

Applicant(s)

JOHNSON, MICHAEL JOSEPH

Examiner

Michael Y. Won

Art Unit

2155

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-27 and 29-47.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached Document.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


STEPHEN NAJJAR
PRIMARY EXAMINER

Response to Arguments

1. In response to the description of the claimed invention recited on the first paragraph of page 22 of the Response After Final filed August 19, 2005, Wilson et al. US Pat. No. 6,651,117 (hereafter "Wilson") also teaches of the seven standardized protocol layers (the "OSI Model") as prior art. Although Wilson does not explicitly state a generic protocol layer class (GPLC), Wilson clearly teaches and suggests such means (see col.3, lines 2-15). Similarly Wilson teaches rather than copying payload data passed to it by the different protocol layers (see col.3, lines 51-58), the protocol layers act upon the data by moving pointers along the data (see col.3, lines 2-5 and lines 18-32; and Fig.4, #142, #144, #146: 1st Buffer Descriptor, 2nd Buffer Descriptor, and 3rd Buffer Descriptor). In Figure 4, Wilson teaches of these descriptors appending to the head of the 4K data buffer. In essence these buffer descriptors are exactly the headers described in the claimed invention and as taught by Figure 4, are clearly "contiguous". It is also inherent that these buffer descriptors are layer specific because Wilson teaches during network communication information travels via the different layers using a network stack interface called SCSI Interface Descriptor (SID) (see col.5, lines 51-67). Furthermore, Wilson teaches the inter-layer data transfer is occurs by passing memory address pointers via SIDs (see col.6, lines 1-8).

Clearly the above-cited references in combination with the cited reference locations of the Final Office action explicitly teach, "wherein the second header is contiguous with the first header".

In response to the non-applicable functionality taught by Wilson, just because Wilson teaches a special circumstance regarding partitioning data into chunks due to buffers that are too large to transmit as a single packet, does not mean that the art is non-analogous. Similarly, if a reference teaches additional limitations and/or utility it does not make the reference non-analogous. The applicant is reminded that the reference is not in question as to its patentability. Even if the data in the buffer is too large to transmit as a single packet, Wilson clearly teaches that the headers (Descriptors) are contiguous (see Fig.4, #126, #142, #144, and #146: the contiguous headers are appended to the head of the first partition, #148, of the 4K Buffer).

In response to the argument regarding “transferring to the second protocol layer the starting pointer by the send procedure, wherein the payload data is not copied in preparation for or during the send procedure”, Wilson clearly teaches this limitation. The reference to column 2 clearly does not teach this limitation because column 2 is conventional prior art. Wilson teaches in column 3, lines 54-58 that “data is obtained from the packet buffer without performing copy operation for each network stack layer”. Such teachings are consistent through the Wilson patent.

For the reasons above, claims 2, 6, 10-11, 15, 19-20, 24, 29, and 38-39 are similarly rejected and therefore, the dependent claims remain rejected.

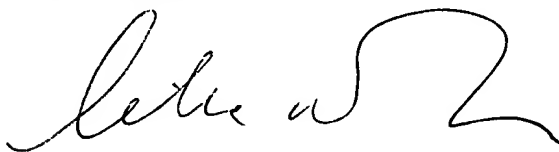
2. Additionally, the examiner could not conclude that the “contiguous” aspect of the claimed invention is the novel element of the claimed invention because such terminology is never mentioned in the disclosure.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y. Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Won



August 31, 2005



SALEH NAJJAR
PRIMARY EXAMINER